

FREDERICK COUNTY PLANNING COMMISSION

November 14, 2012

TITLE: Horan Residential Cluster Concept Plan

FILE NUMBER: S-1154, AP 12389

REQUEST: Residential Cluster Concept Plan
Approval

The Applicant is requesting concept plan approval for 45 Residential Cluster lots on a 45.02-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located at the terminus of Winmoor Drive, near Prices Distillery Road.
TAX MAP/PARCEL: Map 106, Parcel 6
COMP. PLAN: Low Density Residential
ZONING: R-1 Residential
PLANNING REGION: Urbana
WATER/SEWER: Currently NPS (W/S 5 category currently under approval review by MDE)

APPLICANT/REPRESENTATIVES:

APPLICANT: Buckeye Horan, LLC
OWNER: Daniel C. Horan/ Buckeye Horan LLC
SURVEYOR/ENGINEER: Harris, Smariga & Associates, Inc.
ARCHITECT: N/A
ATTORNEY: Rand Weinberg, Esq.

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Horan Residential Cluster Concept Plan Rendering

STAFF REPORT

ISSUE

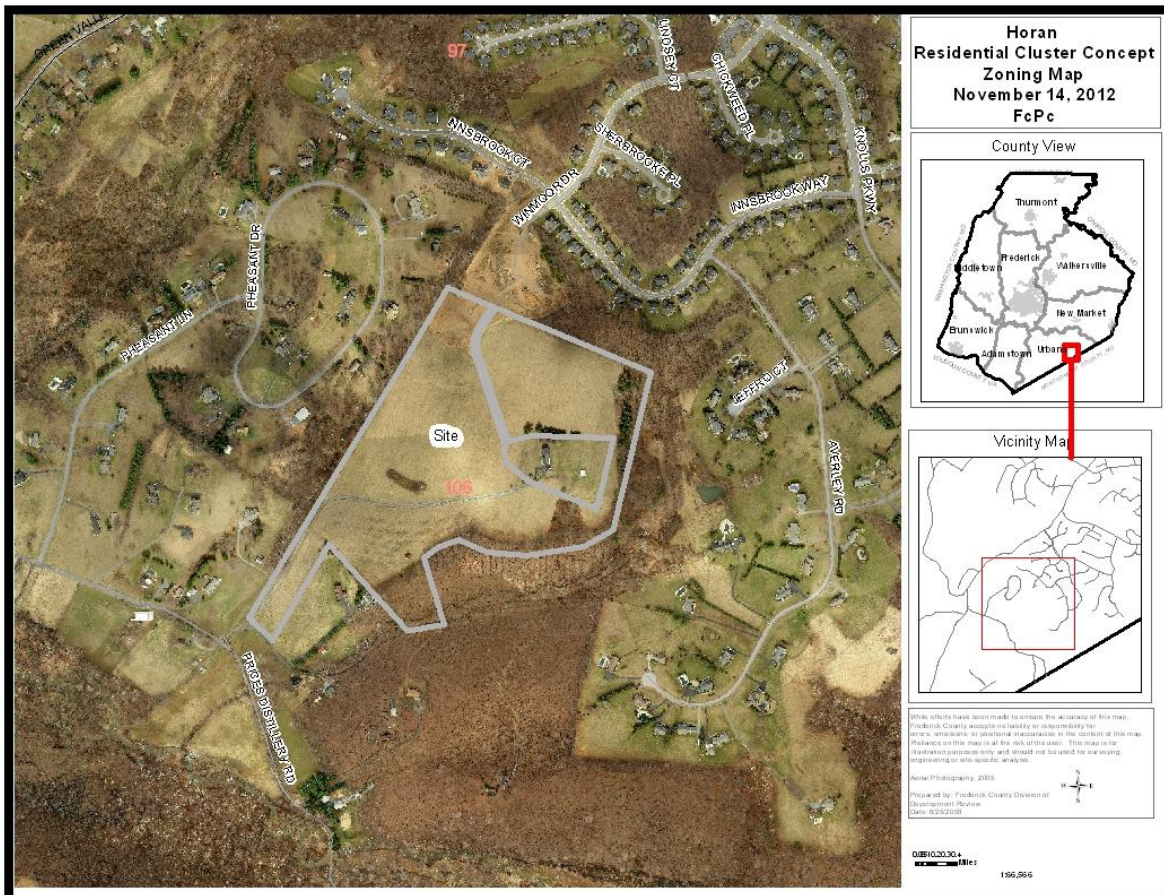
The Applicant is requesting concept plan approval for 45 single-family residential cluster lots on a 45.02-acre site as a Cluster Development under Sections 1-19-10.100 through 1-19-10.100.5 of the Zoning Ordinance.

BACKGROUND

The Applicant submitted a 5-lot Preliminary Plat application in August of 2008, which was reviewed at the December 2008, March 2009, June 2009, and August 2009 Frederick County Planning Commission (FCPC) meetings. At the December 2008 meeting, the FcPc indicated that the design and layout of the proposed public road (and the five lots associated with the first phase of development) was not acceptable. At the March 2009 meeting, the Applicant failed to submit a formal re-submission for FcPc review, and the FcPc continued the application for another 90 days. At the June 2009 meeting the FCPC denied that application. The FcPc directed the Applicant to re-submit the Preliminary Plat for the new street and five lots (Phase I), plus a concept plan showing the ultimate build-out of the site. The Applicant resubmitted a revised plan to FCPC during the August 12, 2009 meeting and received conditional approval.

The subject site is located on a separate tract, but is located adjacent to the southeastern edge of the Windsor Knolls subdivision at the terminus of Winmoor Drive. The Horan Property is proposed to gain access from the Windsor Knolls public road system by extending Winmoor Drive into the Horan Property to serve 45 new lots. The Horan site is also located about 250' from Prices Distillery Road, but no access to Prices Distillery Road is proposed because the Applicant does not have fee simple ownership of the land that adjoins Prices Distillery Road. The Applicant is proposing two new public streets—Winmoor Drive (Extended) and Horan Court.

Graphic #1 Site Aerial



Adjoining Windsor Knolls Subdivision: Windsor Knolls was granted approval for a 243-lot Residential Cluster Plan in 1990. The FcPc granted Preliminary Plat approval for a 243-lot single-family subdivision in 1991. The development was phased in five sections. Plats for the first four sections were recorded before 1999 and have since had single-family dwellings constructed on them. Sections 1- 4 are occupied. Section 5 is partially occupied.

In 1999 the Board of County Commissioners (BOCC) issued a water moratorium that prevented the lots in Section 5 from being recorded. Extensions of the preliminary plat were granted only until October 2000, at which time the Preliminary Plat became void due to water inadequacy. Section 5 (32 lots) was re-approved by the FcPc in three stages from 2005-2008 as the water moratorium was incrementally lifted.

Windsor Knolls Subdivision Road System, in General: The road system for the adjoining Windsor Knolls development provides a major loop system with several minor cul-de-sacs. The Windsor Knolls development connects to both MD 75 and Windsor Road, roughly opposite the Windsor Middle School. The roads are built and were designed with the standard 28' closed-section (rolled curb) design.

Winmoor Drive was planned to extend to the Horan Property. Winmoor Drive was approved as a monumented road with 17.5' closed-section lanes (with rolled curb) and a 10' grass median. A controlled-access design (with some shared driveway locations) was created along Winmoor Drive (in the Windsor Knolls subdivision) in order to facilitate coherent driveway access from the monumented portion of this road. The monumentation was also designed in the Windsor Knolls subdivision to facilitate future development on the adjoining Horan property since the Horan Property is unlikely to be developed with a through-movement road to Prices Distillery Road because there is not fee simple access from the Horan tract to Prices Distillery Road.

The current application is for a 45-lot single family residential subdivision being reviewed as a Cluster Development under 1-19-10.100 through 1-19-10.100.5 of the Zoning Ordinance. Section 1-19-10.100 requires:

(A) *A Concept Plan is to be submitted to the Planning Commission at least 60 days prior to the Commission meeting at which it is to be considered which shows:*

- (1) *The type of dwelling unit (single-family, townhouse, garden apartment, etc.) and building restriction lines; and*
- (2) *Street layout; and*
- (3) *Green area system; and*
- (4) *Vicinity map (Scale: no smaller than 1 inch equals 2,000 feet); and*
- (5) *Topography with minimum 10 foot contours (USGS topographic maps are permitted for the concept plan); and*
- (6) *Number of acres in the entire tract; and*
- (7) *Overall dwelling unit density.*

(B) *If the concept plan is approved by the Commission, the developer will then proceed with platting of the development in accordance with the subdivision regulations.*

ANALYSIS

A. CLUSTER DEVELOPMENT REGULATIONS

1. **Purpose §1-19-10.100:** *The purpose of cluster development is to provide a method of development that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainage ways, or preserves features of outstanding national topography; in order to prevent soil erosion and provide green areas for rest and recreation.*

The cluster plan illustrates a variation in lot size without increasing the overall density. The lots range in size from 10,350 square feet to 24,451 square feet, and the original manor house will remain on a 3.01 acre parcel. Roughly 24.03 acres of the overall site will be owned and maintained as open space by the homeowners association. The majority of the proposed open space consists of open pasture and heavily forested areas within FRO easements.

2. **Districts Where Permitted §1-19-10.100.2:** *In all R Districts, the Planning Commission in approving subdivision plats, may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided.*

The Applicant is seeking approval of the permitted modifications in lot area; with the exception of Lot 1, none of the remaining 44 lots meet the typical 40,000 square foot lot size requirement for the R-1 zoning district. The lots will meet all other R-1 standards. Public water and sewer will service the site.

3. **Density Determination and Design Requirements §1-19-10.100.3:** *The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, **DENSITY** means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after flooding soils areas and rights-of-way for principal highways have been deducted from the gross site area.*

After deducting the flooding soils and the right of way dedication for Yeagertown Road, the net developable area is 41.30 acres (1,800,000 square feet), which permits a density of 45 lots under the standard R-1 dimensional requirements. The Applicant is proposing 45 lots which will not exceed the density permitted by the R1 zoning district for single family residential lots on this site.

4. **Green Area Space Requirements §1-19-10.100.4:** *Reduction of individual lot areas will be reserved as green area. The county may accept the conveyance of the green areas or it shall be conveyed to a nonprofit home[owner]'s association.*

The Applicant is required to provide 23.68 acres of open space; the Applicant is proposing to convey 24.03 acres of open space to the homeowners association. The proposed open space consists of open pasture lands, and heavily forested areas. The Applicant has proposed a 5 foot wide trail system through the HOA open space. The trail system provides residents on the east and west side of the development a circuitous pedestrian travel way.

Cluster Development Regulations Findings/Conclusions

The proposed subdivision will meet all cluster development regulations as provided in section 1-19-10.100 through 1-19-10.100.5 of the zoning ordinance.

B. SUBDIVISION REGULATION REQUIREMENTS

1. **Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

2. **Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site is primarily grasslands, and relatively flat with the proposed Lot 1 containing the existing farmhouse located at the highest portion of the site. The eastern and western borders contain existing forested areas that are proposed to be protected with FRO easements.

Subdivision Regulation Requirements Findings/Conclusions

The proposed subdivision will meet these Subdivision Regulations as provided in **Land Requirements §1-16-217 (A) and (B)**.

C. ACCESS

1. **Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

All lots will take access off of the proposed Winmoor Drive (extended) or the proposed Horan Court.

The Subdivision Regulations (1-16-219.c.3) do not allow more than 4 lots panhandle lots. Lots 17-20 are panhandle lots.

Staff has no objection to the proposed cul-de-sac. The Planning Commission will consider final approval of the new public street during their review of the Preliminary Plan application, which will follow concept plan approval. The FCPC will have to approve a modification for any proposed panhandle lots at the time of Preliminary Plan approval.

2. Other Street Requirements §1-16-236.K:

(K) *Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:*

(1) *For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:*

(a) *Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.*

(b) *In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels. The Planning Commission may approve development of a greater number of lots and/or on a longer cul-de-sac or dead end street*

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if the Planning Commission considers the individual property characteristics and the goals and principles of § [1-16-234](#) as set forth below in § [1-16-236\(K\)\(1\)\(c\)](#).

Winmoor Drive has long been planned to extend to the Horan Property. Winmoor Drive was approved as a monumented road with 17.5' closed-section lanes (with rolled curb) and a 10' grass median through the section of the Windsor Knolls Subdivision, now in development, with the express purpose of providing the sole access to the site. This is because a potential access with Prices Distillery Road through neighboring properties to the south would have inadequate sight distance and Prices Distillery Road itself is not built to current County standards.

The 45 lots being proposed on this site, in addition to the 11 lots from Windsor Knolls, add up to 56 lots with only one access road, Winmoor Drive. At about 800' into the site from Innsbrook Way/Court, an internal road loop system gives the majority of lots access from two directions. Staff recommends that all 45 proposed lots be permitted as shown on the plan, resulting in a total of 26 lots over the desirable minimum for the following combination of reasons:

1. Adverse topography and land ownership prevents reasonable access to nearby public streets,
2. The dead end street is only practically 800', a thousand feet less than the minimum of 1800', after which the majority of lots have access from 2 directions,
3. Prices Distillery Road is over 1,500' from the closest subdivision street, requires land to be purchased from a neighboring parcel, and does not currently meet road adequacy standards,
4. A monumented entrance is being provided as mitigation, as permitted in section 2.01.10(2) of the Streets and Roads Design Manual, combined with past staff commitments that this would mitigate the dead end system.

Staff does expect the applicant to address the following issues at the preliminary plan stage: the actual sight distance inadequacy and potential speeding issues at the intersection of Winmoor Drive and Innsbrook Way/Court.

Access Findings/Conclusions

The lots within the proposed subdivision will meet all County access requirements.

D. WATER AND SEWER FACILITIES

1. **Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has 'NPS' water/sewer category. The Concept plan submitted does not yet conform to Sec. 1-19-10.100.2 of the County Zoning Ord. which states, "*Cluster development is not permitted unless public water and sewer are provided.*" This property was granted Low Density Residential (LDR) on land use plan map & W-5/S-5 W/S category during 2012 Comp. Plan review.

However, MDE has final approval authority over all W/S categories in the county. Therefore, until MDE approves the '5' W/S category, the property has NPS W/S category and doesn't meet intent of the Zoning Ordinance.

To ultimately provide public W/S to this property, a "3" W/S category must be obtained from the county and state which will require signed, approved water/sewer infrastructure Improvement Plans, and may require a groundwater appropriation permit from MDE.

E. OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter §1-15.2: This subdivision will address SWM at the time of Preliminary Plan application.

APFO – Chapter §1-20: This subdivision will address APFO schools, roads, public water, and public sewer at the time of Preliminary Plan application.

Forest Resource Ordinance – Chapter §1-21: The Applicant has submitted and received approval for a FRO plan that meets FRO requirements by preserving 3.16 acres of existing forest, and 5.84 acres of afforestation.

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditionally Approved. SWM requirements to be determined at Preliminary Plan stage.
<i>Development Review Planning:</i>	Hold. Must meet all agency and FcPc comments and conditions.
<i>State Highway Administration (SHA):</i>	N/A
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Approved. They will review the plan further at the Preliminary Plan stage.
<i>Health Dept.</i>	Approved.
<i>Office of Life Safety</i>	N/A. They will review the plan further at the Preliminary Plan stage.
<i>DPDR Traffic Engineering</i>	Approved. They will review the plan further at the Preliminary Plan and APFO stage.
<i>Historic Preservation</i>	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the concept plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-1154, AP 12389) and allow the Applicant to proceed to the preliminary plan stage, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. The approval of this plan does not guarantee approval of future preliminary plans or final plats. All future applications shall be reviewed and approved in the normal manner and in accordance with all applicable regulations.

PLANNING COMMISSION ACTION **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1154 (AP 12389) with conditions** as listed in the staff report for the proposed residential cluster concept plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

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Exhibit #1: Horan Residential Cluster Concept Rendering

